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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,220	12/04/2001	Keith D. Allen	R-741	6858

7590 10/28/2004

DELTAGEN, INC.  
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San Carlos, CA 94070

EXAMINER

BERTOGLIO, VALARIE E

ART UNIT	PAPER NUMBER
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1632

DATE MAILED: 10/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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0904

DATE MAILED:

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**Commissioner for Patents**

The amendment filed on 09/07/2004 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because the newly submitted claims read on multiple, patentably distinct methods. The elected invention and the newly presented claims are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the transgenic mouse can be used in different methods. The mouse can be used to screen for expression modulators or to screen for functional modulators of the RPTPB gene or RPTPB, respectively. The transgenic mouse can also be used to study different roles of RPTPB in metabolism and in hematopoiesis and vascular development. In addition, the newly proposed claims encompass multiple patentably distinct methods. The method of claims 42 and 43, for example, are patentably distinct as they are drawn to different methods of using a transgenic mouse. Claim 42 is drawn to identifying functional modulators. Claim 43 is drawn to identifying expression modulators. The agents identified using the methods would be different in structure and function and have different use.

Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

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